

REMARKS

This Amendment, submitted in response to the Office Action dated June 22, 2004, is believed to be fully responsive to each point of rejection raised therein. Accordingly, favorable reconsideration on the merits is respectfully requested.

Claims 1-18 and 21 are pending in the application. Claims 1-5, 7-9, 12-13 and 21 have been rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-5, 10-12 of U.S.P. 6,499,893 issued to Harada in view of Nomura (U.S.P. 5,866,293) in view of Mouri (U.S.P. 5,073,791). Claims 6 and 14-16 have been rejected under judicial double patenting over claims 1-2 of Harada in view of Nomura, Mouri and Yamada (U.S.P. 5,264,316). Claims 10-11 have been rejected under judicial double patenting over claims 1-2 of Harada in view of Nomura, Mori and Kubo (U.S.P. 6,303,259). Claim 17 has been rejected under judicial double patenting over claim 1 of Harada in view of Nomura, Mouri and Kagayama (U.S.P. 5,038,710). Claims 1-2, 4-5, 12-13, 17-18 and 21 have been rejected under 35 U.S.C. 103 as being unpatentable over Mouri in view of Nomura. Claim 3 has been rejected under 35 U.S.C. 103 as being unpatentable over Mouri in view of Nomura and further in view of Uji-Ie. Claim 6 has been rejected under 35 U.S.C. 103 over Mouri in view of Nomura and further in view of Yamada. Claims 7-11 have been rejected under 35 U.S.C. 103 as being unpatentable over Mouri in view of Nomura and further in view of Kubo. Claims 14-16 have been rejected under 35 U.S.C. over Mouri in view of Nomura and further in view of Okino. Applicant submits the following arguments in traversal of the double patenting and obviousness rejections.

Applicant files concurrently herewith a Terminal Disclaimer to obviate the obviousness-type double patenting rejections over Harada.

With regard to the Section 103 rejections over the base combination of Mouri and Nomura, Applicant respectfully traverses the rejections as follows.

Applicant's invention relates to an image producing apparatus that provides image production while minimizing the generation of waste products. Detailed descriptions of an exemplary embodiment are set forth in the December 3, 2002 Amendment at page 5. Mouri is described in the March 23, 2004 Amendment page 3. Applicant refers the Examiner to these documents for the basic descriptions.

Further to these descriptions, Applicant would emphasize that Mouri relates to a dry process silver salt, with particular prescribed exposure of heat and light to the photosensitive material. The reference is directed to formation of printing plates, such as application of ink to the plates. See description beginning at col. 10, line 17. The newly cited Nomura reference relates to a thermal sensitive material including diazo compounds. The diazo compound becomes fixed by light produced from fluorescent lamps, xenon lamps and mercury lamps.

Moreover, the Nomura reference describes techniques for forming color images due to heat-sensitive recording and light fixation, and in a description from column 25, line 40 specifically discloses a recording method in which color images are formed by conducting thermal recording of a different energy and fixation at a different wavelength. Nomura relates to a different form of image production than the present application.

The Examiner maintains that independent claims 1 and 12 are unpatentable over the combination of Mouri and Nomura. The Examiner concedes that Mouri does not teach a visible light source as a fixing light, but contends that any appropriate wavelength could be used. The

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Appln. No. 09/845,322

Examiner cites Nomura for teaching a fixing light and concludes that a visible source would be appropriate for the medium of Mouri. Applicant submits that the combination is improper for the following reason.

First, Mouri and Nomura relate to different types of recording. Mouri relates to a light-sensitive silver halide material. By contrast, Nomura relates to a diazo-based thermal sensitive recording material. Different types of energy are used to expose, develop and fix images for each type of medium. There is no reason to combine aspects of Mouri and Nomura for this fundamental reason, and relatedly, there is no reason to assume that fixing light of either reference is appropriate for the other.

Second, Applicant argues that one of skill in the art would not include a visible light for fixing in Mouri. The inclusion of the visible fixing light could potentially reduce contrast in view of the silver halide based recording medium. In the presence of non-developed silver salts (halides) in the recording medium, the remaining salts would still be sensitive to light. The light would discolor any remaining salts and potentially render the film unusable. Therefore, Applicant submits that to one skilled in the art, Mouri's silver halide medium would teach away from a visible fixing light.

Therefore, Applicant submits that independent claims 1 and 12 are patentable over the combination of Mouri and Nomura. Applicant submits that the remaining claims are patentable in view of the improper combination and are patentable based on their dependency. Moreover, the remaining references of Uji-Ie, Yamada, Kubo, and Okino fail to make up for the above deficiencies of Mouri and Nomura.

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Appln. No. 09/845,322

Applicant has added claims 22-23 to describe features of the invention more particularly.

In view of the above, Applicant submits that claims 1-18 and 21-23 are in condition for allowance. Therefore it is respectfully requested that the subject application be passed to issue at the earliest possible time. The Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.


Respectfully submitted,

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER


Susan Perng Pan
Registration No. 41,239

Date: September 22, 2004